

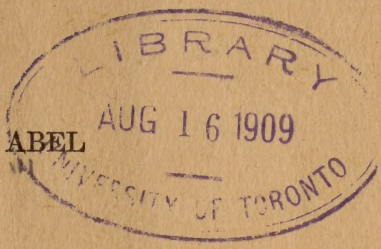
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# PROPOSALS FOR AN INDIAN STATE 1778-1878

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BY

ANNIE H. ABEL



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VI. PROPOSALS FOR AN INDIAN STATE, 1778-1878.

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*Associate Professor in the Woman's College of Baltimore.*

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## PROPOSALS FOR AN INDIAN STATE, 1778-1878.

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The recent admission to statehood of Oklahoma, with its mixture of red, black, and white inhabitants, marks the definite abandonment of an idea that had previously been advocated at intervals for more than a hundred years. This idea was the erection of a State, exclusively Indian, that should be a bona fide member of the American Union. Its first appearance dates back to the treaty of Fort Pitt, negotiated with the Delawares in 1778. In the sixth article of that document <sup>a</sup> commissioners from the Continental Congress stipulated that friendly tribes might, with the approval of Congress, enter the Confederacy and form a State, of which the Delawares should be the head. The permission thus granted was entirely a matter of military expediency; yet it was never acted upon, very probably because the Indians had no adequate conception of its significance, were unprepared to take the initiative, and the white men disinclined to do so.

Seven years later the twelfth article of the treaty of Hopewell <sup>b</sup> outlined an arrangement, somewhat similar in its ultimate purpose, for the Cherokees, who were told that they should "have the right to send a deputy of their choice whenever they" should "think fit to Congress." The commissioners who inserted this provision laid no stress whatever upon it in the official journal of their proceedings, <sup>c</sup> consequently we are obliged to infer that no great departure from existing practices was in contemplation. The Indians seem not to have thought it worth while to make any at all, perchance because the arrangement may not have meant anything more than the occasional sending of an agent to represent their interests, and certainly would not necessarily have elevated them as a community to statehood but only as individuals to citizenship, a condition of affairs that may have been suggested by the proposition of the would-be "State of Franklin" earlier in the same year. <sup>d</sup>

In 1787 Alexander McGillivray, a half-breed, a chief, and decidedly the most influential man among the Creeks, originated a scheme of his own for effecting a change in the political status of his people. He communicated it to James White, the United States superin-

<sup>a</sup> 7 United States Statutes at Large, 14.

<sup>b</sup> Journal of Congress, IV: 628.

<sup>c</sup> American State Papers, Indian Affairs, I: 40-44.

<sup>d</sup> American Historical Review, VIII: 283.

tendent for the southern district, who thought it "something so singular" that he should "be excused for relating it circumstantially" to General Knox. It was as follows: "Notwithstanding that as the guardian of the Indian rights I prompt them to defend their lands, yet I must declare I look upon the United States as our most natural allies. Two years I waited before I would seek for the alliance I have formed. I was compelled to it. I could not but resent the greedy encroachments of the Georgians, to say nothing of their scandalous and illiberal personal abuse. Notwithstanding which I will now put it to the test whether they or myself entertain the most generous sentiments of respect for Congress. If that honorable body can form a body to the southward of the Altamaha, I will be the first to take the oath of allegiance thereto; and in return to the Georgians for yielding to the United States that claim, I will obtain a regular and peaceable grant of the lands on the Oconee, on which they have deluded people to settle under pretense of grants from the Indians, you yourself have seen how ill founded."<sup>a</sup> Presumably McGillivray had in mind an Indian State, but his suggestion proved just as futile as those that had gone before.

The basis for these various plans and, indeed, for some that preceded and for many that followed lay in a tacit acknowledgment of Indian sovereignty. Each European nation that gained a foothold in the New World had to reckon with the Indians, and often against its better judgment to treat with them as independent entities. The only way to insure its own safety and its own advancement was to seek their alliance, guarantee their integrity, and admit their territorial claims, even while asserting a preemptive right of its own. The various projects for an Indian neutral belt from 1761 to 1814 were all in line with the doctrine of Indian sovereignty, as were also the several schemes of Vergennes,<sup>b</sup> Milfort,<sup>c</sup> and Bowles.<sup>d</sup> Moreover, in those years when the Indian tribes could figure so prominently and effectively as friend or foe their rights were at a premium, especially during the Revolutionary and Confederacy eras and during the critical period that followed, when Spain, France, and Great Britain, taking advantage of the weakness of the United States, were independently intriguing for the control of the Mississippi Valley.

With the final settlement of that question as determined by the purchase of Louisiana came a new suggestion for the adjustment of Indian relations with the United States Government. This comprehended the setting aside of the larger part of the Louisiana territory for Indian occupancy, involving the removal and colonization of

<sup>a</sup> American State Papers, Indian Affairs I: 21.

<sup>b</sup> Atlantic Monthly, vol. 93, p. 809; American Historical Review, X: 253.

<sup>c</sup> Atlantic Monthly, vol. 93, p. 811.

<sup>d</sup> Ibid., p. 681.



all the eastern tribes that could be induced to exchange lands and to emigrate.<sup>a</sup> The plan of colonization was not a new one, since General Knox had formulated it years before,<sup>b</sup> but that of removal perforce was, there having previously been no government land that could be used for the purpose. It is very doubtful whether, in thus providing a home for the Indians, Jefferson had in mind an Indian Territory of such a character as would develop into an Indian State. He spoke of a temporary asylum only; yet he had the opportunity to plan a great State since the objections that stood in the way of any such political edifice within the chartered limits of the old Thirteen did not hold in the West. The Federal Government could do as it pleased with territory that it had bought with federal funds. Notwithstanding this, the plan came to nothing. Even if it had been enthusiastically advocated by the party in power, it is problematic whether the Indians, as strongly entrenched as they were in their ancestral domains, could have been induced to move. Some of them asked instead for citizenship,<sup>c</sup> and certain statesmen, notably William H. Crawford,<sup>d</sup> supported the idea. In his opinion incorporation was the only feasible plan.

During Monroe's second term Indian affairs in Georgia reached a climax, whereupon the administration, as the best way out of a most serious difficulty, revived<sup>e</sup> the old plans of removal and colonization and later improved upon them to this extent, that it advised the introduction of a governmental system.<sup>f</sup> Taking various documents together, departmental reports and presidential messages, we gather that this was its general scheme, the formation of tribal districts with a civil administration in each and the *union* of the *whole* in prospect. Eventual statehood was not specifically mentioned, but, by Calhoun at least, was broadly hinted at,<sup>g</sup> and would have been the natural out-

<sup>a</sup> Ford's Jefferson, VIII: 241-249.

<sup>b</sup> American State Papers, Indian Affairs, I: 52-54.

<sup>c</sup> American State Papers, Foreign Relations, I: 72; The Writings of Thos. Jefferson, library edition, XVI: 434-435.

<sup>d</sup> American State Papers, Indian Affairs, II: 27, 28.

<sup>e</sup> Special Message, March 30, 1824, Richardson II: 234-237.

<sup>f</sup> Annual message, December 7, 1824, *Ibid.* 261; special message, January 27, 1825, *Ibid.*, 280-283.

<sup>g</sup> \* \* \*. There ought to be the strongest and most solemn assurance that the country given them should be theirs, as a permanent home for themselves and their posterity, without being disturbed by the encroachments of our citizens. To such assurance, if there should be added a system by which the government, without destroying their independence, would gradually unite the several tribes under a simple but enlightened system of government, and laws formed on the principles of our own, and to which, as their own people would partake in it, they would, under the influence of the contemplated improvement, at no distant day, become prepared, the arrangements which have been proposed would prove to the Indians and their posterity a permanent blessing. It is believed that if they could be assured that peace and friendship would be maintained among the several tribes; that the advantages of education which they now enjoy would be extended to them; that they should have permanent and solemn guaranty for their possessions, and receive the countenance and aid of the government for the gradual extension of its privileges to them, there would be among all the tribes a disposition to accord with the views of the government \* \* \*." (Gales and Seaton's Register, I, Appendix, pp. 57-59.)

come. Who originated the idea it is impossible to determine. The chances are the Rev. Jedidiah Morse deserves some credit, for his observations in the Northwest and his investigations into Indian conditions generally had led him three years before to say most positively: "Let this territory be reserved exclusively for Indians, in which to make the proposed experiment of gathering into one body as many of the scattered and other Indians as choose to settle here, to be educated, become citizens, and in due time to be admitted to all the privileges common to other territories and States in the Union \* \* \*"<sup>a</sup>

Congressional action along this same line is rather interesting as showing how clearly defined was the idea that the Indian country to the westward should constitute a regular Territory, and that for the red men only. On the former point the House resolution of December 27, 1825,<sup>b</sup> was especially explicit, and on the latter, an earlier one of December 17, 1824.<sup>c</sup> There was no mistaking the character of the Territory. It was to be "of the same kind and regulated by the same rules" as other "Territories of the U. S." Inferentially, then, it was to be a State in embryo, which Smyth, of Virginia, seems to have deemed constitutionally impossible.<sup>d</sup> Benton, of Missouri, was evidently of a different opinion, and in his capacity as chairman of the Senate Committee on Indian Affairs applied to Calhoun to draft a bill that should accord with the recommendations of the President. Calhoun did so,<sup>e</sup> and the bill passed the Senate on the 23d of February,<sup>f</sup> but it failed to meet with the concurrence of the House of Representatives.

Under John Quincy Adams the matter came up again, and this same Senate bill was taken by the House,<sup>g</sup> amended by its Committee on Indian Affairs, and referred to Secretary Barbour for suggestions.<sup>h</sup> Now Barbour, as we learn from Adams's diary, had been, like Adams himself, an advocate of incorporation; but about this time, when the Creek controversy was confronting him, he changed his views and henceforth not only supported removal in its most extreme form—i. e., by individuals set free from tribal connections—but also the establishment of a great territorial government west of the Mississippi. In cabinet meeting Adams, Rush, Southard, and Wirt all expressed doubts of the plan, but all finally approved, having nothing better to propose.<sup>i</sup>

<sup>a</sup> Report, Appendix, p. 314.

<sup>b</sup> House Journal, 19th Cong., 1st sess., p. 97.

<sup>c</sup> Niles's Register, vol. 27, p. 271; House Journal, 18th Cong. 2d sess. p. 56.

<sup>d</sup> Abridgment of Debates, VIII: 221; Gales and Seaton's Register I: p. 38.

<sup>e</sup> Indian Office Letter Books, Series II, No. 1, pp. 334-335.

<sup>f</sup> Gales and Seaton's Register, I: 639-645, 649.

<sup>g</sup> *Id.*, XIII, Part 2, Appendix, p. 55.

<sup>h</sup> Miscellaneous Files, Indian Office MS. Records; American State Papers, Indian Affairs, II: 646.

<sup>i</sup> Diary of J. Q. Adams, February 7, 1826.

Barbour's suggestions, in answer to the appeal of the House committee, took the form of "a project for a bill," which presented an Indian Territory in broad outline and supplied, what earlier measures had lacked, an administrative machinery.<sup>a</sup> The creation of the Territory was not to be immediate, but discretionary with the President. In due time John Cocke, as chairman of the committee, reported a bill embodying all the essential particulars of the "project," with some minor additions,<sup>b</sup> but the House did not act upon it. It is worthy of mention that in none of the documents was there any provision for a Delegate in Congress, although we know, from the correspondence that took place between Barbour and Thomas S. Hinds, of Kentucky, that the subject was discussed.<sup>c</sup>

The first session of the Twentieth Congress resumed the consideration of the plan for organizing an Indian Territory, but never got beyond the resolution-making stage. Southern men were too anxious for prompt removal to care to dillydally with the details of a governmental system. Yet it is significant that the one resolution that unmistakably pointed toward an Indian State came from a southern man, from Representative Mitchell, of Tennessee, December 17, 1827.<sup>d</sup> Another southerner, however, Wilson Lumpkin, of Georgia, took exception to it because, as he remarked when arguing for a substitute, it looked too far ahead.<sup>e</sup> The administration none the less continued to work in that direction; and when Porter succeeded Barbour as Secretary of War he took up the subject,<sup>f</sup> but with an interest rendered somewhat personal by local considerations. McKenney<sup>g</sup> and the

<sup>a</sup> Gales and Seaton's Register, II, Part 2, Appendix, pp. 40-43; American State Papers, Indian Affairs, II: 646-649; Niles's Register, vol. 29, p. 431.

<sup>b</sup> Reports of Committees, 23d Cong., 1st sess., Vol. IV., No. 474, pp. 76-78.

<sup>c</sup> Thomas S. Hinds to Barbour, February 23, 1826, and March 9, 1826, Miscellaneous Files, Indian Office MS. Records; McKenney to Hinds, January 28, 1828, Indian Office Letter Books, Series II, No. 4, p. 258.

<sup>d</sup> Gales and Seaton's Register, IV, part 1, p. 820.

<sup>e</sup> *Ibid.*, p. 1585.

<sup>f</sup> *Ibid.*, Vol. V, appendix, pp. 7-10; Niles's Register, Vol. 35, p. 249.

<sup>g</sup> A letter from McKenney to Porter, January 31, 1829, reveals something of the plans of the two men, McKenney and McCoy:

"\* \* \* remarks on former grants by Treaty to Indians \* \* \* and to the outlets guaranteed to them, to which objections are taken, would be applicable if those grants had been made in relation to a Colony, in which relation McCoy considers the subject, but being based on the existing relations of the Indians to the U. S. and to one another, as Tribes, the extent of country granted to each Tribe, was no less a demand of theirs, than was the outlets as these are defined. It was to comply or not effect the object of Congress in providing the ways and means to negotiate those Treaties. In any new relations which it may be thought proper to adopt for the organization of a plan suited to the improvement of those Tribes West of the Miss. or who may go there, the existing geographical relations of each to the other would as a matter of course have to be so arranged as to fall in with the plan of colonizing the whole, and to harmonize in all respects with such new relations. But this could not have been effected until the system to which it must have had reference existed. It does not yet exist.

"It is my decided opinion, which I respectfully submit, that nothing can preserve our Indians, but a plan well matured and suitably sustained, in which they shall be placed under a Government, of which they shall form part, and in a Colonial relation to the

Rev. Isaac McCoy<sup>a</sup> were both active in the same enterprise, but Congress was unresponsive. Indeed, new complications arose which made it almost impossible for certain sections to view the matter judiciously. The Cherokees, fully alive to earlier recognitions of Indian sovereignty, emphasized their own independence of Georgian jurisdiction by establishing a republic upon the model of the American. In 1827 they adopted a constitution.<sup>b</sup> They hoped that progressive action of this sort would save them from further encroachments. It really hastened their downfall.

During Jackson's presidency Indian removal became a prominent political issue; but if it is to be regarded as akin in any sense to colonization, the act of 1830,<sup>c</sup> which made it a part of the national policy, was legislation ill advised, ill considered, and incomplete. Under it the whole body of eastern Indians were to be taken, if possible, west of Missouri and left there totally unorganized. Each tribe, it is true, was to retain, presumably, its own native government; but had not that government already proved its insufficiency by revealing traits incompatible with economic development in the United States? Professions of a desire to civilize the Indians necessarily presupposed admittance at some future time to citizenship. The Cherokees, as we have seen, had already adopted Anglo-Saxon institutions and *all* the tribes *might be induced* to do the same. No more fitting time for making a change in their political status could have been found than this when a change of homes was to be made and the old associations cast aside. Removal was in itself iconoclastic. Why not have gone a step farther.<sup>d</sup>

Dissatisfaction with the chaotic state of affairs in the Indian country in the West came largely from the red men themselves. The United States Government had been so untrue to its promises in the past that it was obliged to give strong assurances of good faith in the future. Notwithstanding this, it was not quite ready to organize a regular Territory for its wards or to allow them a Delegate in Congress, even though the Choctaws in negotiating the treaty of

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United States \* \* \*. In a Colony, of course, the existing divisions among the Tribes would be superseded by a General Gov't for the whole; and by a parcelling out of the lands among the families \* \* \*. It does appear to me that as a first step in this business of Colonization, a general arrangement should be made in regard to the lands and the limits—a Gov't simple in its form, but effective, ought to be extended over those who have already emigrated \* \* \*." (Indian Office Letter Books, Series II, No. 5, pp. 288–291.)

<sup>a</sup> Diary of J. Q. Adams, January 22, 1827.

<sup>b</sup> Niles's Register, Vol. 33, p. 214; U. S. Ex. Docs., 23d Cong., 2d sess., Vol. III, No. 91; Cherokee Phoenix, February 28, 1828; Diary of J. Q. Adams, February 6, 1828.

<sup>c</sup> United States Statutes at Large, 411–412.

<sup>d</sup> Secretary Eaton seems to have been decidedly in favor of establishing an Indian Territory. See Report, November 30, 1829, American State Papers, Military Affairs, vol. IV, pp. 154–155.

Dancing Rabbit Creek had expressly asked for one.<sup>a</sup> Things came to such a pass, however, that Congress was obliged in 1832 to authorize<sup>b</sup> the appointment of a commission<sup>c</sup> to investigate inter-tribal disputes and to take the sense of the emigrants upon the question of their own government.<sup>d</sup> The commission reported in favor of organization.<sup>e</sup> Then began an interesting scene in Congress. During several sessions both Houses reported bills<sup>f</sup> having in view

<sup>a</sup> 1. Art. 22. The chiefs of the Choctaws have suggested that their people are in a state of rapid advancement in education and refinement, and have expressed a solicitude that they might have the privilege of a Delegate on the floor of the House of Representatives extended to them. The commissioners do not feel that they can, under a treaty stipulation, accede to the request; but, at their desire, present it in the treaty, that Congress may consider of and decide the application. 2. The Choctaws had drawn up an instrument of cession and removal earlier—that is, in the spring of 1830—and had specifically arranged therein for their ultimate admittance to statehood. (Niles's Register, vol. 39, p. 19.)

<sup>b</sup> Act of July 14, 1832.

<sup>c</sup> Cass in recommending this emphasized the policy of self-government. (Report, February 16, 1832, Indian Office Letter Books, Series II, No. 8, pp. 264-291.)

<sup>d</sup> Instructions to the commissioners, July 14, 1832. (Ibid., No. 9, pp. 32-41.)

<sup>e</sup> Reports of Committees, 23d Cong., 1st sess., Vol. IV, No. 474, pp. 78-103.

<sup>f</sup> The series began in 1834 with a bill (House bill No. 490) drafted by the commissioners of 1832. This bill was ably discussed in the House of Representatives June 25, 1834, but met with considerable opposition and was eventually postponed to the next session of Congress. (Niles's Register, vol. 46, p. 317; House Journal, 23d Cong., 1st sess., p. 833; Gales and Seaton's Register, Vol. X, part 4, p. 4763 et seq.) It was accompanied upon its introduction into the House by a most elaborate report (Reports of Committees, 23d Cong., 1st sess., Vol. IV, No. 474) which had been prepared by Representative Horace Everett, of Vermont, and is a mine of historical and statistical information. The bill came up again the next session, but was lost in the House. (Gales and Seaton's Register, Vol. X, part 4, p. 4779.)

In 1836 both the Senate and the House considered a bill covering the subject. That in the Senate (No. 159) was championed by Tipton, of Ohio, and was accompanied by a report slightly less exhaustive than that of Everett two years before. (Senate Docs., 24th Cong., 1st sess., Vol. III, No. 246; Senate Journal, p. 220; McCoy's Annual Register of Indian Affairs, 1837, p. 68.) No important action was taken upon it, however, and in the following December Senator Tipton introduced another bill of like tenor (No. 15), which met with a like fate. (Senate Journal, pp. 31, 42, 59, 160, 236.) The House bill (No. 365) was reported by Everett February 19, 1836. It differed from his earlier bill in one very important particular by making the prospective delegate simply a sort of resident agent instead of the equivalent of a regular territorial Delegate. C. A. Harris, the Commissioner of Indian Affairs, nobly supported the project of organization, as is well attested by his report to the Acting Secretary of War, B. F. Butler, December 1, 1836. (Gales and Seaton's Register, XIII, part 2, appendix, pp. 53-65.)

In 1837 the indefatigable Everett introduced a third bill (No. 901), the principle of which found vigorous support in the arguments of Representative Cushing (House Journal, 24th Cong., 2d sess.; Gales and Seaton's Register, Vol. XIII, part 2, pp. 1516, 1532), and in 1838 a fourth (No. 495) (House Journal, 25th Cong., 2d sess., p. 330). In this latter year the Senate also showed great interest in the matter and succeeded in passing a bill (No. 75) touching it. "The bill was sent to the House for its concurrence. The House had a bill of its own before it, similar in its provisions to the Senate's bill. Both bills were reported to the House by the Committee of Indian Affairs, having passed to that stage, when they could properly be called up for the final consideration and action of the House. In this place, unfortunately for the subject, the bills were left behind by the press of other matters. From the large majority in favor of the bill in the Senate it is fair to infer that had a decisive vote been taken in the House it would have become a law." (McCoy's Annual Register of Indian Affairs, 1838, p. 11.) For a history of No. 75 in its various stages, see Niles's Register, vol. 54, pp. 123, 155, 156, 157, 172, 218; Senate Journal, pp. 87, 367, 378, 380-381, 383, 385; House Journal, p. 947.

In the third session of the Twenty-fifth Congress Senator Tipton tried once more to get a bill for the organization of an Indian Territory passed. For that purpose he reported No. 23 on the 10th of December, 1838, and it was passed by the Senate on the 25th of February, 1839. (Senate Journal, pp. 35, 57, 272; Niles's Register, vol. 55, p. 247; Congressional Globe, p. 216.) The House did nothing with it.

the establishment of an Indian Territory—*all failed*. The trouble was that the several bills were regarded as administration <sup>a</sup> measures and therefore as not wholly or primarily philanthropic. The earlier ones were intended mainly to lead the Cherokees into compliance with the policy of removal.<sup>b</sup> They were supported by the Georgia delegation and opposed by such men as Clay, Calhoun, and John Quincy Adams. The chief arguments against them were, that they contemplated military rule for an indefinite period, left too much to the discretion of the President, and by holding out offices to *principal* men only catered to the prejudices of *chiefs*, who feared that the

<sup>a</sup> In the earlier years of his presidency, Jackson paid little or no attention to Indian territorial organization. On the contrary, he rather advocated the continuance of tribal conditions in their entirety. (Message, December 8, 1829, Richardson, II: 458; message, December 6, 1830, *ibid.*, p. 520.) As McKenney confessed to H. L. White, February 26, 1830, so much emphasis had been placed upon "removal" that it was no wonder the public had got the impression that the policy of the Government was "merely a question of removal." (Indian Office Letter Books, Series II, No. 6, pp. 292-294.) As a matter of fact, it was not until after the commission of 1832 had made some investigations that Jackson advised a possible reorganization of the Indian political system. (Message, December 3, 1833, Richardson, III: 33.) Subsequent events showed that his main objects then were to reduce the expense of the Indian service (Message, December 1, 1834, *ibid.*, p. 114) and, by the formation of a sort of Indian confederacy under the control of the United States, put a check upon intertribal quarrels and hostilities (Message, December 7, 1835, *ibid.*, pp. 172-173). It must be noted, however, that Secretary Eaton had recommended the formation of an Indian Territory very much earlier, viz. in his report of 1829.

Van Buren naturally succeeded (Richardson, III: 391, 499, 500-501) to this policy, advised thereto by Secretary Poinsett, who said, in his report of December 2, 1837:

"The only duty of the government which remains undischarged is the formation of a suitable territorial government, and their admission to such a supervisory care in the general legislation as is granted by the laws to other territories of the United States, and for the exercise of which they appear to be sufficiently prepared.

"The subject is confessedly difficult and embarrassing; but the bill introduced into congress at the last session, and partially acted upon, would seem to offer a fair prospect of success, and to secure to these Indians the enjoyment of all the advantages of free government which the necessity of stretching over them the protecting arm of the Government will admit \* \* \*." (Niles's Register, vol. 53, p. 336.)

<sup>b</sup> The Cherokee Nation, divided on the subject of removal, was also divided on that of territorial organization. One faction seemed very desirous of having the promise and the prospect of an Indian State (Memorial to Congress, 1834, Cherokee Emigration Papers, Indian Office MS. Records), and most probably that faction was the one that secured the article in the treaty of New Echota, which provided for a Delegate in the House of Representatives. Concerning that article, John Mason, jr., United States special agent to the Cherokees, 1837, said:

"There, Cherokees, in your new country, you will be far beyond the limits or jurisdiction of any State or Territory; the country will be yours, yours exclusively. \* \* \* There, finally, Cherokees, to give permanency to your institutions and to secure the peace and prosperity of your nation, you will be entitled to a delegate in the House of Representatives of the United States, and thus be considered a member of this great confederacy, with a full right to its protection and a full participation in all its advantages and blessings." (Ex. Docs., 25th Cong., 2d sess., Vol. V. No. 82, p. 5: No. 99, pp. 33-35.)

The sentiments of an opposing Cherokee faction were communicated to the House of Representatives by Secretary Poinsett May 21, 1838, with the following indorsement from himself:

"As the delegation [Messrs. Ross, Edw. Gunter, R. Taylor, Jas. Brown, Sam'l Gunter, Situwakee, Elijah Hicks, and White Path] expressed their fears that a form of government might be imposed which they were neither prepared for nor desirous of, the assurance is hereby repeated, that no form of government will be imposed upon the Cherokees without the consent of the whole nation, given in council, nor shall their country be erected into a territory without such previous concurrence." (Ex. Docs., 25th Cong., 2d sess., Vol. X, No. 376.)

abolition of tribal governments would mean a diminution of their power. Some southern men took issue on the *color* line, announced themselves as opposed on principle to a prospective Indian State, and declared a negro State would be just as proper and to them just as acceptable.

The title of these several bills—the preservation of the Indians and the protection of the western frontier—offers a possible clue to the underlying motive of the Government. The motley crowd of Indians, predisposed, by reason of their being advanced each to a different stage of civilization, to quarrel among themselves, were a menace to the peace of adjoining States.<sup>a</sup> Many of them, being enraged at the grievous wrong that had been done them, were suspected of plotting revenge.<sup>b</sup> Remember, these were the years when the Texas question was beginning to be agitated. Should war with Mexico come on this or on any other pretext, the Indian might find his opportunity. Closer military supervision, therefore, under pretense of giving training in republican self-government, was deemed the wisest course. Strange to say, certain army men, consulted as to ways of fortifying the frontier, declaimed against the organization of the Indian Territory on the ground that the tribes would realize the force of the old saying, “In union there is strength.”<sup>c</sup>

Action outside of Congress was almost as persistent as within, and slightly more successful. McCoy, who surveyed much of the Indian land, cooperated with the commissioners of 1832, and for years and years argued and pleaded for an Indian State. He it was who submitted the congressional measures to the tribes, and, in a majority of cases, secure their concurrence.<sup>d</sup> So interested was he, forsooth, that

<sup>a</sup> Niles's Register, vol. 54, p. 3; Ex. Docs., 25th Cong., 2d sess., Vol. VIII, No. 278, p. 20; Vol. IX, Nos. 311 and 434.

<sup>b</sup> Niles's Register, vol. 53, pp. 340, 384.

<sup>c</sup> In addition to the reports of army men, there is a good deal of material for and against organization which was collected by L. F. Linn and A. G. Harrison in the summer of 1837. G. P. Kingsbury, writing to the former of these two men from Fort Coffee, September 10, 1837, argued for a single superintendent, or governor, in the Indian country, and, in addition, said:

“Every two years there should be a general council or congress to consist of a delegation of all the different tribes of Indians. \* \* \* This grand council will be considered a great event in the lives of the Indians, and their principal warriors will be very desirous of being sent as delegates to it. \* \* \* In a short time, if such should be the policy of the Government, they might, at this general council, elect delegates to Congress, which would open a new field of ambition to them \* \* \*.”

Agent John Dougherty also recommended a single superintendent and had practically the same opinion about organization. “The expediency,” said he, “of organizing an Indian Territory at this time, with a view to bringing the wild Indians under legal restrictions, is, in my opinion, very doubtful; before this can be done, they must be taught to work, read, and write, and be weaned from the chase.” This course persistently followed would, in a few years, permit a beginning at self-government and render the Indians “capable of furnishing a representative in the United States councils \* \* \*.” (Ex. Docs., 25th Cong., 2d sess., Vol. VIII, No. 276.)

<sup>d</sup> McCoy's Annual Register of Indian Affairs, 1837. 1838; Niles's Register, vol. 53, pp. 67-68, 336; Richardson, III: 391; House Reports, 30th Cong., 2d sess., Vol. III, No. 736, pp. 7, 8.

he worked in advance of actual instructions and so far anticipated matters as to lay off a federal district, beyond the State line of Missouri, which was to be the seat of the future Indian government. He claimed to have done this under the known sanction of Secretary Eaton.<sup>a</sup> It would seem that this approached the confederacy idea rather than the territorial, but the two ideas were always associated together in the debates of the time, and in practice could be only gradually disassociated. Both McCoy and Eaton must have realized this, for both had a practical knowledge of the Indians and knew perfectly well how impossible it would be to consolidate widely differing tribes without going through preliminary stages.

When the fraudulent treaty of New Echota was negotiated with the Cherokees, the idea of a Delegate in Congress was revived,<sup>b</sup> but it proved only an empty promise. Removal accomplished, all else was of secondary importance, so that as far as entrance to the American Union was concerned, this leading tribe of Indians was no farther advanced in 1835 than it had been in 1785. It had now two treaties to its account, in one particular of identically the same value, for both made representation dependent upon congressional action. Fifty years showed absolutely no progress in the matter of political concessions. Van Buren's Administration opened and closed

<sup>a</sup> "In 1832, when Secretary Eaton retired from office, he was about to instruct the Superintendent of Surveys, then in his employ, to set apart a portion of the unappropriated lands, in a central part of the contemplated Territory, for the Seat of Government of the Territory, should it become organized. It was thought advisable that a few miles square should be reserved from cession to any tribe, in which reservation all the tribes should have a common interest, on which should be erected all public buildings, and should be settled all persons whose offices made it necessary for them to reside at or near them. \* \* \* Nothing further was done in relation to this matter, until 1837, when orders were issued from the Department of Indian Affairs to the Superintendent of Surveys, to select and report a place suitable for the above objects. The selection was accordingly made of a valuable tract, of about seven miles square on the Osage River. It is nearly equi-distant from the Northern and Southern extremities of the Territory, and a little over sixteen miles West of the State of Missouri." (McCoy's Annual Register of Indian Affairs, 1838, p. 18.)

<sup>b</sup> The influence which the promise of congressional representation had upon the negotiation of the treaty of New Echota may be inferred from Butler's report of December 3, 1836, which reads as follows:

"In the late treaty with the Cherokees East of the Mississippi, it is expressly stipulated, that they shall be entitled to a delegate in the House of Representatives whenever Congress shall make provision for the same. It is not to be doubted that the hopes thus held out to these tribes [Choctaws and Cherokees] had an important influence in determining them to consent to emigrate to their new homes in the West \* \* \* And, at as early a day as circumstances will allow, the expectations authorized by the passage above quoted from the treaties with the Choctaws and Cherokees should be fulfilled. Indeed, from the facts stated by the Commissioner, it is scarcely to be doubted that the Choctaws are already in a condition to justify the measure. The daily presence of a native delegate on the floor of the House of Representatives of the United States, presenting, as occasion may require, to that dignified assembly, the interests of his people, would, more than any other single act, attest to the world and to the Indian tribes the sincerity of our endeavors for their preservation and happiness. In the successful issue of these endeavors, we shall find a more precious and durable accession to the glory of our country than by any triumph we can achieve in arts or in arms \* \* \*." (Gales and Seaton's Register, Vol. XIII, pt. 2, appendix, pp. 11-21.)



with nothing done for Indian statehood.<sup>a</sup> Friends of the measure were bitterly disappointed. The Rev. J. F. Schermerhorn, one of the commissioners of 1832 and the chief negotiator of the treaty of New Echota, voiced the sentiment of many when he made in 1839 his personal plea to Poinsett, virtually saying that he would never have worked so hard for removal had he not honestly believed that territorial organization would come with its completion.<sup>b</sup>

Occasionally during the next three decades individuals found time and opportunity to discuss the Indian situation. Meanwhile the great question of establishing a territory for the tribes found favor, or would have found favor had it been sufficiently agitated, with at least two of President Tyler's Secretaries of War, viz, John C. Spencer<sup>c</sup> and William Wilkins.<sup>d</sup> In the session of 1845-46 Congress took up the subject again, moved thereto by a stirring memorial from a missionary association. On that occasion the House Committee on Indian Affairs went so far as to report a bill<sup>e</sup> defining such a territory, but it was not acted upon. In 1848, the safety of Texas in view, Representative McIlvane, from the Indian Committee, made an exhaustive report,<sup>f</sup> quite on a par with Everett's and Tipton's of earlier years, in which he urged territorial organization, but he urged in vain. He also reported a bill "embracing the general principles of the bill of 1834."<sup>g</sup>

In 1851 James Duane Doty addressed<sup>h</sup> the President on the subject of making a very necessary change in the Indian political status, but Fillmore was most likely not altogether in sympathy with the project, for, as Representative, he had been uncertain whether to support or to oppose one of the territorial organization bills<sup>i</sup> and now shifted the responsibility of answering Doty's letter to the Secretary

<sup>a</sup> Van Buren, however, did in his first two annual messages recommend the establishment of some simple form of government for the emigrant tribes. See Richardson III: 391, 501.

<sup>b</sup> Miscellaneous Files, 1839-1841, Indian Office MS. Records; Abel, "Indian Consolidation West of the Mississippi River," p. 393, note b.

<sup>c</sup> "The plan of something like a territorial government for the Indians has been suggested. The object is worthy of the most deliberate consideration of all who take an interest in the fate of this hapless race." (Report Nov. 26, 1842, Ex. Docs., 27th Cong. 3d sess., Vol. I, p. 189.)

<sup>d</sup> "In the course of the progress under our moral enterprise, for their civilization, they must eventually attain the sagacity to look out for individual and social rights, and that degree of general intelligence to entitle them to the full extension of all the privileges of American citizens. When that time shall arrive there will be no obstacle to political association by reason of any natural or acquired repugnance to the blood of the original American." (Report Nov. 30, 1844, Ex. Docs., 28th Cong. 2d sess., Vol. I, p. 125.)

<sup>e</sup> House Journal, 29th Cong., 1st sess., p. 995.

<sup>f</sup> House Reports, 30th Cong., 2d sess., Vol. III, No. 736.

<sup>g</sup> *Ibid.*, pp. 11-14.

<sup>h</sup> See his letter, printed as an appendix to this article.

<sup>i</sup> Gales and Seaton's Register, Vol. X, part 4, p. 4779; Niles's Register, vol. 46, p. 307; House Journal, 23d Cong., 2d sess., p. 424.

of the Interior,<sup>a</sup> who passed it on to the Commissioner of Indian Affairs, who ignored it. Doty argued more particularly for the property and political rights of the individual Indian and cited the experience of the Brothertown Indians in Wisconsin to prove his case.<sup>b</sup> In 1853 Schoolcraft manifested some slight interest in the general subject of Indian welfare, but opposed the formation of a Territory, since, like Doty, he deemed the political consolidation of the tribes impracticable.<sup>c</sup> To him a series of small colonies<sup>d</sup> from the Rockies to the Pacific,<sup>e</sup> presumably like the reservation farms of California, would be a better solution of the Indian problem. The fact is, the time was not propitious for organization. The United States Government was even then breaking away from the rash promises it had made in the twenties and thirties; for it was looking forward, as was evidenced in the consideration of the question of Wyandot citizenship, to the Kansas-Nebraska bill, to the passage of which organization along the original lines, i. e., southward from the Platte, might have proved an insurmountable obstacle.

After the civil war, when the Federal Government was calling the Five Civilized Tribes to account for their recent alliance with the southern Confederacy,<sup>f</sup> it made a desperate effort to force territorial organization upon them; but they stood out firmly and unanimously

<sup>a</sup> Alexander H. H. Stuart.

<sup>b</sup> It is well to remember that from the very earliest years of the United States Government individual ownership, or allotment in severalty, had been often suggested as preeminently the best way to bring about the civilization of the Indians. Naturally it would have involved incorporation or the extension of State laws over the tribes, since it was usually offered as the alternative of removal.

<sup>c</sup> "The colonization plan of 1825 is the best one if properly carried out. It has worked well and is only at fault because it is not from character of Indians fully carried out. They will not act together. They hate union. They distrust each other. They cling to tribal gov't—the bane of their whole system from first to last." (H. R. Schoolcraft to Robert McClelland, 1853—Schoolcraft Unbound Miscellaneous Papers.)

<sup>d</sup> "I think there is room for eight states inclusive of Minnesota, Oregon, and Washington between the Miss. and the Pacific & each of them should I think have an Indian district within it in their own latitude on which the Indians should be subject to our laws *civil & criminal*, to be administered, however, by specially appointed judges \* \* \* ." (Same to same, *ibid.*)

<sup>e</sup> Up to the time of the Mexican war suggestions were quite often made having in view the surrendering of the western territory to the Indians. Senator Dickerson, of New Jersey, once said that "the British Government would probably readily join with the Government of the United States in any measure that might be necessary to secure the whole territory claimed by both parties West of the Rocky Mountains to the present possessors of the soil." (Debate on the Oregon bill, February 26, 1825, Gales and Seaton's Register, I: 694-695.) About two months before Representative Smyth, of Virginia, had proposed "providing for two tiers of States west of the Mississippi and giving the Indians an unchangeable boundary beyond." (Abridgment of Debates, VIII: 211.) As a matter of fact, though, the pioneers had decidedly other views with respect to the occupation of the western country. Note, for instance, the following extract from a letter dated St. Louis, June 16, 1841.

\* \* \* \* Your name is well known in the mountains by many of your old friends who would be glad to join the standard of these country and make a clean sweep of what is called the Origon Teritory: That is to say clear it of British and Indians \* \* \* ." (Miscellaneous Files, Indian Office MS. Records.)

<sup>f</sup> In no instance was an entire tribe in league with the seceding States; but that fact was not taken into account when the question of confiscating tribal lands came up.

against it,<sup>a</sup> yet in their position as conquered rebels perforce had finally to accept a halfway measure in the shape of a general council.<sup>b</sup> The Indian understanding of this was well expressed in 1874 when territorial bills were before Congress and the Indians were memorializing against them. "We do hereby most solemnly and emphatically declare that the articles of the treaties of 1866, *do not authorize the formation by Congress of a Territorial government of the United States over the Indians of the Indian Territory.* On the contrary the agreements on our part in assenting to the establishment of said council was entered into for the very purpose of obviating the alleged necessity of such a Territorial government. \* \* \* We held that that country was exclusively an Indian country, as contradistinguished from a Territory of the United States, and we treated upon that basis \* \* \*."<sup>c</sup> The general council indicated was organized at Okmulgee, in the Creek country, in 1869,<sup>d</sup> and formed of itself a constituent assembly, drawing up and provisionally adopting a constitution, which, however, failed of ratification by the Indians.

With the incoming of Grant as President, no time was lost in urging territorial government for the Indians, notwithstanding the fact that the several treaties of 1866 had stipulated explicitly that the legislation of Congress in the direction of a civil administration for the Indian country should not interfere with or annul tribal organization, rights, laws, privileges, customs. The exigencies of the times demanded a change, however, and, as Grant said in his first annual message, economic growth, as seen in the building of large railways that brought the white settlements ever nearer to the red, made it expedient.<sup>e</sup> The application of the suggestion to the country south of Kansas was not specific until two years later (1871), when Grant recommended the establishment of a Territory there as a possible

<sup>a</sup> Protest of Southern Creek Delegation, March 18, 1866, Creek Files, 1860-1869, Indian Office MS. Records; Senator Patterson's Report, February 11, 1879, Senate Reports, 45th Cong., 3d sess., Vol. III, No. 744.

<sup>b</sup> Article VII, Seminole Treaty, March 21, 1866, 14 United States Statutes at Large, p. 758. Article VIII, Choctaw and Chickasaw Treaty, April 28, 1866, *ibid.*, p. 772. Article X, Creek Treaty, June 14, 1866, *ibid.*, p. 789. Article XII, Cherokee Treaty, July 19, 1866, *ibid.*, p. 802.

<sup>c</sup> Memorial to President Grant, February 9, 1874, included in Patterson's Report, p. 376.

<sup>d</sup> The Indians chafed under the delay in organizing the general council, as is indicated by the following letter from Superintendent L. N. Robinson to the Acting Commissioner of Indian Affairs, Charles E. Mix, September 26, 1868:

"There is a general desire on the part of the various tribes in this Territory, for the speedy organization of the General Council provided for in their several treaties of 1866; and much impatience is manifested at the delay of such organization. Under the provisions of the treaties, the census of the tribes having been completed \* \* \*, it is mandatory on the superintendent of Indian Affairs to 'publish and declare to each tribe the number of members to which they shall be entitled' and to appoint the time and place for the first meeting of said council.

"It is the generally expressed wish of the various tribes that I shall call such session to meet on the first Monday in December next, and that date meets my approval \* \* \*." (Southern Superintendency Files, 1867-68.)

<sup>e</sup> Richardson, VII : 39.

“means of collecting most of the Indians now between the Missouri and the Pacific and south of the British possessions into one Territory or one State.”<sup>a</sup> That he had not a mixed State in mind is seen from his fourth annual message,<sup>b</sup> his policy being definite, to collect as many Indians as he could and protect them from the incursions of white men. Later messages in his second administration emphasized this point of view;<sup>c</sup> but sentiment in the country at large steadily drifted toward the exclusion of the old notion. Thus the resolutions of the National Commercial Convention at St. Louis in 1872<sup>d</sup> pointed unerringly toward a mixed State. Bills in Congress, for the most part, did likewise—hence the determined opposition of the Indians.<sup>e</sup> During this time also the separate organization of Oklahoma came to be talked of and no pretense was ever made that Oklahoma was to be exclusively Indian. After 1878 there was practically no thought whatsoever of allowing the aborigines a separate existence as an integral part of the Union, and the spasmodic efforts of a hundred years had failed.

<sup>a</sup> Richardson, VII: p. 152.

<sup>b</sup> *Ibid.*, p. 200.

<sup>c</sup> *Ibid.*, pp. 252, 300.

<sup>d</sup> House Mis. Docs., No. 42, Vol. II, 42d Cong., 3d sess.

<sup>e</sup> The most prominent of the Indian protests against territorial organization are the following: The Cherokee delegation to E. S. Parker, January 14, 1870, Cherokee Files, 1869-70; the Creek delegation to President Grant, June 4, 1870, and inclosures, Creek Files, 1870-1872; the Cherokee, Muscogee, and Seminole delegations to the President and people of the United States, June 4, 1870, Southern Superintendency Files, 1869-70; memorial of the Choctaw Nation, referred January 31, 1872, Senate Mis. Docs., 42d Cong., 2d sess., Vol. I, No. 53; protest of the Cherokee and Creek delegations, referred March 3, 1873, House Mis. Docs., 42d Cong., 3d sess., Vol. III, No. 110; message of Will P. Ross, principal Chief of the Cherokee Nation, November 5, 1873, Cherokee Files, 1872-1874; protest of the general Indian council, December 6, 1873, Senate Reports, 45th Cong., 3d sess., Vol. III, No. 744, pp. 379-381; message of William Bryant, principal Chief of the Choctaw Nation, January 20, 1874, Choctaw Files, 1873-1876; memorial from the Choctaws, Cherokees, Creeks, and Seminoles, April 22, 1878, House Mis. Docs., 46th Cong., 1st sess., Vol. I, No. 13; resolutions of the general council of the Choctaw Nation, November 5, 1878, Senate Mis. Docs., 45th Cong., 3d sess., Vol. I, No. 52, pp. 2, 3; memorial of I. L. Garvin, principal Chief of the Choctaw Nation, December 24, 1878, *ibid.*; protest of the Cherokee, Creek, and Choctaw delegations, May 8, 1879, House Mis. Docs., 46th Cong., 1st sess., Vol. I, No. 13.

## APPENDIX.

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### LETTER OF JAMES DUANE DOTY.

HOUSE OF REPRESENTATIVES,  
Washington, *Jan'y 20<sup>th</sup>, 1851.*

To His Excellency MILLARD FILLMORE  
*President &c. &c. &c.*

Sir,

The question of the necessity or propriety of the removal of the Indians now residing in various sections of the North Western States, *and who are partly or wholly civilized*, to the country West of the Mississippi river, is one of such importance to them, to the Government, and to humanity that you will pardon me, I hope, for asking its consideration at this moment.

For several years past it has been held, that the presence of those Indians who are civilized in the Country occupied by those who are wild, would have a beneficial effect upon the latter in civilizing and christianizing them also. The facts I believe do not confirm this opinion.

Ought we not therefore now—if not heretofore—to inquire what is the effect which this removal has *upon themselves*? My observation has been in regard to the Northern Indians, that it entirely checks their further advancement in the arts of civilized life, and tends directly to return them to the Hunter state.

The white man has ever promised this race since his first occupation of this continent, that when they became agriculturalists and adopted his habits, they should be entitled to enjoy the same civil and political rights equally with himself. The power to confer these rights, it is supposed, is with the Government of the United States; and believing the time has arrived when their condition, if not our own honor, demands the execution of this power, on their behalf I would respectfully apply for the preparation in the proper Department of a plan by which, under the authority of law, they may individually purchase and hold Real Estate, their blood be made heritable, and all the rights of Citizenship, in some form and at some period—depending perhaps upon their progress in civilization—be conferred upon them.

They have justly complained that under the present system, when they have obtained to a considerable extent the knowledge and habits of the Whites, and have lost the art and taste for the chase, they are excluded from the society of our citizens as members of the same commonwealth, and are not permitted to aspire to any of the stations under Government. Life, for them, has no longer any object: they have no social or political associations with us; they regard themselves with contempt, as they are regarded by those who continue in the Hunters state; and they sink in despondency.

The only exception to this view with which I am acquainted is that of the Brothertown Indians in Wisconsin, who, by authority of an act of Congress divided the land which they had previously held in common equally among the members of the Tribe, and received patents individually therefor from the President, became Citizens, and have since—and now exercise all of the rights and privileges of American Citizens. They hold offices in the Town and County

under the State government, and some of them have been elected members of the Legislature and served in that station with great credit. Ten years have elapsed since this Act passed and yet there are very few cases of sales of their land to white men.

The following are the provisions of the *Constitution of the State of Wisconsin* on the subject of suffrage by persons of the Indian Blood:

\*            \*            \*            \*            \*            \*            \*

It has been proposed to establish an "Indian Territory" beyond the white settlements to which the remnants of the numerous Tribes in the North Western States may be removed.

This can only be regarded as an effort to preserve the Indians as a distinct race—a continuation of the plan now pursued.

The country lying *west* of the Territory of Minnesota, between the Coteau de Prairie and Missouri river, appears to be the most favorably situated for this object. But even there to permanently insure their civilization, it will be necessary to grant the right to individual Indians, who are disposed to settle as agriculturists, to acquire, and to transmit to their heirs, the title to real estate. There can no longer be a doubt among men who have resided many years in the country occupied by the Northern Nations that no valuable or permanent improvement can be made in the condition of these people, unless this provision is made.

We cannot of course contemplate the formation of such a *State* without calculating its advantages to the Indians, and to the white men; as also its cost, and its future relations, to this government, and to the other States.

The question is therefore presented—whether it is best to permit them to remain in their native country to which they are strongly attached, or the country where they now dwell, with the prospective right to become citizens and to enjoy the same civil and political privileges as ourselves; or to occupy a *STATE* by themselves, disconnected with the Whites if possible, with their own government and laws,—but dependent upon the Government of the United States,—and forming a community which must be composed of Tribes not heretofore friendly with each other, and of Individuals some of whom are civilized and others not?

The interest which I feel in the welfare and improved condition of these People, arising perhaps from a very long residence and extensive personal acquaintance with them, must be my apology for the above suggestions which I have ventured to make upon the present and future condition of this Race.

With great respect, I have the honor to be,

Your Excellency's Most obedient servant

JAMES DUANE DOTY.

(Miscellaneous Files, 1851-1854, Indian Office MS. Records.)



